IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

RSA No. 3068 of 2004
Date of Decision: 23.10.2006

Jasbir Singh ...Appellant

Versus

State of Punjab and others ....Respondents

Coram: Hon'ble Mr. Justice Hemant Gupta.

Present: Shri Harkesh Manuja, Advocate and
Shri S.S. Sidhu, Advocate, for the appellant.

Shri Arun Bansal, Advocate, for the respondents.

JUDGMENT

The plaintiff is in second appeal aggrieved against the judgment and decree passed by the Courts below, whereby his suit for declaration challenging Fard Badar dated 3.12.1998 as illegal, null and void was dismissed.

It has been found by the Courts below that prior to the Jamabandi for the year 1976-77, the Khasra No. 216 was described as Gair Mumkin Pahi and Khasra No. 214 was described as Gair Mumkin Ruri. However, in the Jamabandi for the years 1976-77 onwards, such entries got swapped. The said mistake has been ordered to be corrected in the Fard Badar dated 3.12.1998.

Learned counsel for the appellant has vehemently argued that the said Fard Badar could not have been entered in the revenue record after the sanction of the mutation in favour of the appellant on 27.8.1991 on the basis of sale deed dated 15.4.1991, whereby the plaintiff has purchased 3

marlas of land out of Khasra No. 216, which was then described as Gair Mumkin Ruri. Relinace has been placed upon Clause 0No. 7.29 of the Punjab Land Records Manual, to contend that the mutation cannot be ordered to be corrected by way of Fard Badar.

However, I do not find any substance in the said argument raised by the learned counsel for the appellant. What has been corrected by Fard Badar, is not the entry in the mutation sanctioned in favour of the plaintiff but the mistake which crept in the Jamabandi for the year 1976-77. Merely in the interregnum, mutation was sanctioned in favour of the appellant, will not preclude the revenue authorities from correcting the mistake, which have had crept in the Jamabandi for the year 1976-77.

Learned counsel for the appellant, in the alternative, has raised an argument that the plaintiff-appellant is entitled to protect his possession on the basis of sale deed dated 15.4.1991. However, I do not find any merit in the said argument as well. The plaintiff is entitled to protect his possession in respect of 3 marlas of the land, which would be deemed to be part of Khasra No. 214 but not in respect of Khasra No. 216, which is a public passage.

Concurrent findings of fact are sought to be disputed by way of re-appreciation of evidence. I do not find any patent illegality or irregularity in the findings recorded by the Courts below, which may raise any substantial question of law in the present appeal.

Hence, the present appeal is dismissed.

23-10-2006 (HEMANT GUPTA)
ds JUDGE